

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Donald Larry Elliott,

Civ. No. 20-844 (WMW/BRT)

Plaintiff,

v.

C. R. Bard, Inc. and Bard Peripheral
Vascular, Inc.,

**REPORT AND
RECOMMENDATION**

Defendants.

Andrew L. Davick, Esq., Anthony J. Nemo, Esq., Ashleigh E. Raso, Esq., Ava Marie M. Cavaco, Esq., and Genevieve M. Zimmerman, Esq., Meshbesher & Spence, counsel for Plaintiff.

Cody Blades, Esq., and Libretta Stennes, Esq., counsel for Defendants.

BECKY R. THORSON, United States Magistrate Judge.

A Joint Status Report was submitted to Chambers on January 25, 2021, indicating that Plaintiff Donald Elliott passed away on February 3, 2020. (Attachment 1 to this Report and Recommendation.) Despite several attempts, Plaintiff's counsel was unable to reach any heirs and the parties requested that the Court issue an Order to Show Cause. The Court issued an Order to Show Cause on February 1, 2021, directing Plaintiff's heirs to appear before this Court by February 26, 2021, if they intended to participate in this case. (Doc. No. 29.) The Court stated in that Order that if Plaintiff's son or other heirs did not appear in this matter by that date, this Court may recommend that the case be dismissed with prejudice. (*Id.*) As of today's date, none of Plaintiff's heirs have contacted Plaintiff's counsel or otherwise appeared in this action.

RECOMMENDATION

Accordingly, based on the foregoing, and on all of the files, records, and proceedings herein, and for good cause, **IT IS HEREBY RECOMMENDED** that:

1. This matter be **DISMISSED** with prejudice, with each party to bear its own costs.

Date: March 19, 2021

s/ Becky R. Thorson
BECKY R. THORSON
U.S. Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).